

COOLEY GODWARD KRONISH LLP
JOHN C. DWYER (136533)
GRANT P. FONDO (181530)
JESSICA VALENZUELA SANTAMARIA (220934)
JAMES M. PENNING (229727)
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Telephone: (650) 843-5000
Facsimile: (650) 849-7400

Attorneys for Nominal Defendant
BROCADE COMMUNICATIONS SYSTEMS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE BROCADE COMMUNICATIONS
SYSTEMS, INC. DERIVATIVE
LITIGATION

Case No. C 05-02233 CRB

**STIPULATION AND [PROPOSED] ORDER
TO CONTINUE THE JUNE 6, 2008 CASE
MANAGEMENT CONFERENCE**

This Document Relates to:

ALL ACTIONS

WHEREAS, beginning June 1, 2005, several shareholder derivative litigations related to Brocade's historical stock option granting practices were filed;

WHEREAS, on August 19, 2005, the Court ordered the consolidation of these related shareholder derivative litigations;

WHEREAS, on March 21, 2008, Brocade filed with this Court its Statement Regarding Hearing for Final Approval ("Brocade's Statement") informing the Court that, on February 22, 2008, the Company's board of directors ("Board") had created a Special Litigation Committee (the "SLC") and had given it full plenary authority to, among other things, investigate, pursue

1.

**STIPULATION & [PROPOSED] ORDER TO
CONTINUE CASE MANAGEMENT CONFERENCE
CASE No. C 05-02233 CRB**

1 and/or resolve the Company's derivative claims relating to options back-dating and the matters
2 at issue in this action;

3 **WHEREAS**, Brocade's Statement further informed the Court that, on March 14, 2008, the
4 SLC had retained the law firm of Dewey & LeBoeuf LLP ("Dewey") as independent counsel to
5 the Company, reporting directly to the SLC, and that the SLC (acting for the Company) is being
6 advised by Dewey partners Ralph C. Ferrara, Ann Ashton and Jonathan E. Richman, each of
7 whom works out of Dewey's New York or Washington D.C. office;

8 **WHEREAS**, on April 25, 2008, the parties in this action and counsel for the SLC provided
9 the Court with an update as to the status of this matter and the SLC investigation;

10 **WHEREAS**, on April 25, 2008, the Court scheduled a further Case Management
11 Conference for 8:30 a.m. on June 6, 2008, to allow the parties and counsel for the SLC to
12 provide a further update on the status of this matter and the SLC investigation;

13 **WHEREAS**, on May 27, 2008, the Court related the *Barbour v. Reyes*, Case No. 3:08-CV-
14 02029 JSW, derivative litigation to this action but did not consolidate the actions;

15 **WHEREAS**, the lead attorney for counsel for the SLC has a family medical emergency
16 that precludes his ability to travel to the West Coast and be fully prepared to provide the Court
17 with a full update on the status of the SLC investigation at the June 6, 2008, Case Management
18 Conference;

19 **WHEREAS**, the parties and counsel for the SLC wish to continue the Case Management
20 Conference to accommodate this family medical emergency;

21 **WHEREAS**, counsel for the SLC has discussed the continuance with plaintiffs' counsel in
22 the *Barbour* action and plaintiffs' counsel is not opposed to the continuance;

23 **WHEREAS**, the parties and counsel for the SLC anticipate they will need approximately 2
24 hours for the Case Management Conference;

25 **WHEREAS**, the parties and counsel for the SLC understand that 8:30 a.m. on June 12,
26 2008, and 10:00 a.m. on June 13, 2008, are available on the Court's calendar for a Case
27 Management Conference;

28 2.

STIPULATION & [PROPOSED] ORDER TO
CONTINUE CASE MANAGEMENT CONFERENCE
CASE NO. C 05-02233 CRB

774410 v1/PA

1 **WHEREAS**, a case management conference in the state derivative action, *In re Brocade*
 2 *Communications Systems, Inc. Derivative Litigation*, Lead Case No. 1:05CV041683, California
 3 Superior Court, County of Santa Clara, is scheduled for 1:30 p.m. on June 13, 2008;

4 **WHEREAS**, the parties and counsel for the SLC are also available for a Case
 5 Management Conference at those times, although most of the parties would prefer to hold the
 6 conference on June 12, because (i) an SLC member who wishes to attend the Case Management
 7 Conference cannot attend on June 13, and (ii) many of the parties in the action before this Court
 8 are already required to appear before the state court in San Jose in the Brocade derivative action
 9 pending in Santa Clara County on the afternoon of June 13;

10 **NOW, THEREFORE**, the parties hereby stipulate as follows:

11 1. The Case Management Conference currently scheduled for June 6, 2008, shall be
 12 rescheduled to ^{1:30 p.m.}~~8:30 a.m. on June 12, 2008, or, in the alternative, 10:00 a.m. on June 13, 2008,~~¹²
 13 with the joint case management statement to be filed by June 6, 2008.

14
 15 Dated: June 2, 2008

FARUQI & FARUQI, LLP

16
 17 _____
 18 /s/
 19 Christopher Marlborough

20 Co-Lead Counsel For Plaintiffs

21 Dated: June 2, 2008

FEDERMAN & SHERWOOD

22 _____
 23 /s/
 24 William B. Federman

25 Co-Lead Counsel For Plaintiffs

26
 27
 28 3.

STIPULATION & [PROPOSED] ORDER TO
 CONTINUE CASE MANAGEMENT CONFERENCE
 CASE NO. C 05-02233 CRB

1
2 Dated: June 2, 2008

COOLEY GODWARD KRONISH LLP

3
4 /s/
Grant P. Fondo

5 Attorneys For Nominal Defendant,
6 BROCADE COMMUNICATIONS
7 SYSTEMS, INC.

8 Dated: June 2, 2008

HELLER EHRMAN LLP

9
10 /s/
Norman J. Blears

11 Attorneys For Defendant Antonio Canova

12
13 Dated: June 2, 2008

WILMER CUTLER PICKERING HALE &
DORR

14
15 /s/
Jonathan A. Shapiro

16 Attorneys For Defendant Seth D. Neiman

17
18 Dated: June 2, 2008

KIRKPATRICK AND LOCKHART AND
PRESTON GATES ELLIS LLP

19
20 /s/
Jeffrey L. Bornstein

21 Attorneys For Defendant Neal Dempsey

22
23
24
25
26
27
28 4.

STIPULATION & [PROPOSED] ORDER TO
CONTINUE CASE MANAGEMENT CONFERENCE
CASE NO. C 05-02233 CRB

1
2 Dated: June 2, 2008

SHEARMAN & STERLING LLP

3
4 /s/
Stephen D. Hibbard

5 Attorneys For Defendants Christopher B.
6 Paisley, David L. House, Nicholas G. Moore,
7 L. William Krause, Sanjay Vaswani, Robert
R. Walker and Michael Klayko

8 Dated: June 2, 2008

SKADDEN ARPS SLATE MEAGHER &
FLOM LLP

9
10 /s/
Garrett J. Waltzer

11 Attorneys For Defendant
12 Gregory L. Reyes
13

14
15 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

16 I, Grant P. Fondo, attest that concurrence in the filing of this document has been obtained
17 from each of the other signatories. I declare under penalty of perjury under the laws of the
18 United States of America that the foregoing is true and correct. Executed this 2nd day of June,
19 2008, at Palo Alto, California.
20

21 /s/
Grant P. Fondo
22
23
24
25
26
27
28

5.

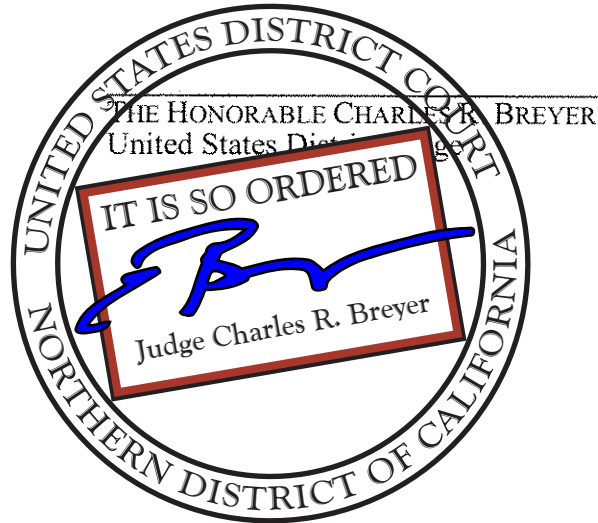
STIPULATION & [PROPOSED] ORDER TO
CONTINUE CASE MANAGEMENT CONFERENCE
CASE NO. C 05-02233 CRB

[PROPOSED] ORDER

Pursuant to the stipulation of counsel, IT IS SO ORDERED:

1. The Case Management Conference scheduled for June 6, 2008, shall be
1:30 p.m.
rescheduled to ~~8:30 a.m.~~ on June 12, 2008, and the joint case management statement shall be
filed by June 6, 2008.

Dated: June 2, 2008



6.

STIPULATION & [PROPOSED] ORDER TO
CONTINUE CASE MANAGEMENT CONFERENCE
CASE NO. C 05-02233 CRB